UNREPORTABLE

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

C.M. No.7438/2010 in FAO No.219/2001

Date of Decision: May 06, 2010

ANIL KUMAR PRABHAKAR ..... Appellant
through Mr. A.S.Kulshrestha, Advocate

versus

O.P.SHARMA & ORS ..... Respondents
Through respondents No.2 to 4 in person

CORAM:
HON'BLE MISS JUSTICE REKHA SHARMA

1. Whether the reporters of local papers may be allowed to see the judgment? No
2. To be referred to the reporter or not? No
3. Whether the judgment should be reported in the 'Digest'? No

REKHA SHARMA, J. (ORAL)

This is an application by the appellant whereby he has prayed that the custody of Baby Swati be given over to him. The appellant is the father of Baby Swati. Her mother had died under unnatural circumstances when she was about 2½ years old resulting in the registration of a case under Sections 498-A/304-B/34 of the Indian Penal Code against the appellant. However, on September 15, 2006, he was acquitted in the said case.

The appellant had moved the trial Court for taking custody of the child which was denied to him. Against the order of the trial Court, he preferred an appeal before this Court. The appeal was

disposed of on April 03, 2002. In the order so passed, the appellant was granted visiting rights and was also granted liberty to move an application for the custody of the child after two years of the passing of the order. In view of the liberty so granted, the appellant has filed the present application.

Baby Swati is present in the Court today along with her maternal uncles and maternal grand-mother with whom she has been living since the death of her mother. She states that she is 17½ years of age. She further states that she now wants to live with her father. Her maternal uncles and maternal grand-mother have no objection if her custody is handed over to the father.

Having regard to the above and in view of the willingness of the child, Baby Swati who is fairly mature now being 17½ years of age, I see no reason for not handing her over to her father. Hence, the application is allowed. The custody of the child, Baby Swati is given to the appellant who is present in the Court.

The application is disposed of.

REKHA SHARMA, J.

MAY 06, 2010
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